



UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

OFFICE OF THE  
GENERAL COUNSEL

January 15, 2010

BY FEDERAL EXPRESS

Hon. Burton R. Lifland  
U.S. Bankruptcy Judge of the  
Southern District of New York  
One Bowling Green  
New York, NY 10004-1408

Re: *SIPC v. Bernard L. Madoff Investment Securities LLC*,  
No. 08-1789 (BRL)

Dear Judge Lifland:

The Securities and Exchange Commission is filing today the enclosed Supplemental Memorandum of Law in response to arguments made in reply memoranda filed by several of the claimants taking issue with arguments raised in the Memorandum of Law of the Securities and Exchange Commission Supporting Trustee's Determination that Net Equity Should Not be Based on Securities Positions Listed on Last Statements, and Supporting in Part Trustee's Determination that Net Equity Should Be Based on Amounts Deposited Less Amounts Withdrawn.

The Commission filed its Memorandum of Law on December 11, 2009, pursuant to this Court's Order Scheduling Adjudication of "Net Equity" Issue, which allowed Interested Parties to file briefs in support of the Trustee's Net Equity Motion. The Scheduling Order provides that the Trustee and Securities Investor Protection Corporation are to file reply papers on or before January 15, 2010. There is no provision in the Scheduling Order for the Commission, as an Interested Party that filed a brief supporting the Trustee's Net Equity Motion, to respond to the arguments made in the claimants' reply memoranda.

The Commission respectfully seeks an opportunity, by submission of the enclosed Supplemental Memorandum, to address the principal arguments made in the reply memoranda against its position. The Supplemental Memorandum responds to claims that the Commission's position in its December 11 memorandum is contrary to provisions of the Securities Investor Protection Act, the legislative history, and Second Circuit precedent. The Commission believes that the Supplemental Memorandum will assist the Court's consideration of the net equity issue pending before it.

Hon. Burton R. Lifland  
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I was told by your Clerk that you had decided that it was not necessary for the Commission to file a motion seeking leave to file the Supplemental Memorandum of Law.

Sincerely yours,

A handwritten signature in cursive script that reads "Katharine B. Gresham".

Katharine B. Gresham  
Assistant General Counsel

enclosure

cc: (by first class mail and facsimile)  
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